

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-187-C - ORDER NO. 2008-535
AUGUST 7, 2008

IN RE: Level 3 Communications, LLC's Tariff No. 4) ORDER APPROVING
- Revisions to Update the Rates for Switched) SETTLEMENT
Access Services) AGREEMENT AND
) REVISIONS TO
) SWITCHED ACCESS
) RATES

This matter comes before the Public Service Commission of South Carolina ("Commission") on the April 11, 2007 filing of Level 3 Communications, LLC's ("Level 3's") revision to its South Carolina Tariff No. 4 to update the rates for switched access services. On May 4, 2007, Verizon South, Inc. ("Verizon") filed a Petition to Intervene and requested an investigation into Level 3's proposed switched access rates. Petitions to Intervene were also filed by the South Carolina Telephone Coalition and its affiliates ("SCTC"), Windstream South Carolina, Inc. ("Windstream"), BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina ("AT&T South Carolina"), and AT&T Communications of the Southern States ("AT&T Communications") (collectively, "the Parties").

On August 14, 2007, the Commission appointed the Honorable Joseph M. Melchers, Esquire as Hearing Officer in this matter. Consistent with this Commission's long-standing practice of encouraging carriers in competitive markets to negotiate mutually-acceptable resolutions to their disputes, the Parties, along with the Office of

Regulatory Staff (“ORS”) participated in settlement negotiations in person and via conference call on numerous occasions between May 2007 and June 2008. After lengthy negotiations, the Parties reached a settlement agreement (“the agreement”), attached hereto as Order Exhibit 1.

As explained in more detail in the agreement, Level 3 has separately negotiated certain intrastate switched access rates, terms, and conditions individually with the other parties in this Docket. The ORS has reviewed each of these individual contracts and has discussed the terms and conditions of each individual contract with the parties to that contract, and, as a result of those individual discussions, ORS has concluded that each contract is consistent with the public interest as defined in S. C. Code Ann. Section 58-4-10 (B) (Supp. 2007). The parties and ORS request that this Commission approve the agreement. Under the terms of the agreement, Level 3’s proposed tariff revisions to Tariff No. 4 effective as of the date filed, May 1, 2007 will apply to all other carriers, unless any such carrier negotiates its own contract for intrastate switched access rates, terms, and conditions with Level 3.

The parties and ORS assert that the parties are authorized to enter into individual contracts pursuant to state law, as per S.C. Code Ann. Sections 58-9-280(I) and 58-9-285 (Supp. 2007). In light of this express statutory authorization and ORS’s determination that each contract is consistent with the public interest, the parties and ORS request that this Commission waive any requirement for a hearing that may exist and expeditiously approve the settlement agreement.

By statute, the Commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in this State, and to fix just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, or observed and followed by every public utility in this State. S.C. Code Ann. Section 58-3-140 (A) (Supp. 2007).

Further, the Settlement Policies and Procedures of the Commission (Revised 6/13/2006) are pertinent to the matter before the Commission and consistent with its statutory duties. Section II of that document (“Consideration of Settlements”) states:

When a settlement is presented to the Commission, the Commission will prescribe procedures appropriate to the nature of the settlement for the Commission’s consideration of the settlement. For example, the Commission may summarily accept settlement of an essentially private dispute that has no significant implications for regulatory law or policy or for other utilities or customers upon the written request of the affected parties. On the other hand, when the settlement presents issues of significant implication for other utilities, customers, or the public interest, the Commission will convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is just, fair, and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. Approval of such settlements shall be based upon substantial evidence in the record.

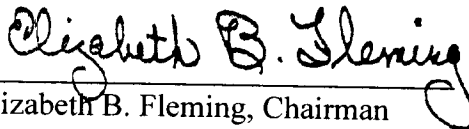
This settlement arises in a different posture than most such settlements that come before this Commission. Here, Level 3 is governed by the procedures established for flexible regulation enumerated in Order No. 98-165. See Order No. 2003-699. Under these procedures, Level 3’s tariff filings are presumed valid upon filing, subject to this Commission’s right to institute an investigation of the tariff filing, pursuant to petitions of interested parties. In the present case, interested parties intervened and, ultimately, settled their differences with Level 3. Accordingly, we hold that there is now no opposition to

the tariff filing, which puts the tariff in a status equivalent to its original “presumed valid” status. Therefore, no further investigation is necessary, and no hearing need be held to consider the merits of this matter.

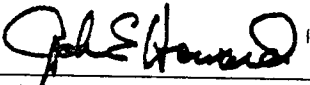
Accordingly, we have examined the entire record of this case, and have determined that approval of the agreement is in the public interest. Clearly the agreement is the product of extensive settlement negotiations, which took place over an extended period of time. Separate rates, terms, and conditions were negotiated by Level 3 with the other parties in this case, with the aid of ORS. ORS reviewed the resultant rates, terms, and conditions, and concluded that each contract is consistent with the public interest as defined in S. C. Code Ann. Section 58-4-10 (B) (Supp. 2007). The actual filed tariff rates will apply to all other carriers, unless said carriers negotiate their own contract for intrastate switched access rates, terms, and conditions with Level 3. We find this result to be reasonable. Again, this Commission believes that approval of the agreement is in the public interest, and we therefore waive hearing and approve the settlement agreement, and the proposed revisions to the tariff.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2007-187-C

June __, 2008

In Re:

Level 3 Communications, LLC's Tariff)	
No. 4 Revisions to Update the Rates)	
For Switched Access Services)	
<hr style="width: 100%;"/>		SETTLEMENT AGREEMENT

This Settlement Agreement is made by and among Level 3 Communications, LLC, Windstream South Carolina, Inc., Verizon South Inc., the South Carolina Telephone Coalition and its affiliates,¹ BellSouth Telecommunications, Inc., d/b/a AT&T South Carolina, AT&T Communications of the Southern States, LLC, TC Systems, Inc. ("TC Systems"), BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service ("AT&T LD") and AT&T Communications of the Southern States, LLC ("AT&T Communications"), (collectively referred to as the "Parties" or sometimes individually as "Party") and the Office of Regulatory Staff ("ORS").²

WHEREAS, on April 11, 2007, Level 3 filed a revision to its South Carolina Tariff No. 4 with the Public Service Commission;

WHEREAS the other Parties to this Docket filed petitions to intervene;

¹ Members of the SCTC are set forth in Appendix A to this Settlement Agreement.

² The Office of Regulatory Staff ("ORS") is a party of record in this case by virtue of its role identified in S.C. Code § 58-4-10 (B) (Supp. 2007); and, for purposes of this Settlement Agreement, ORS has acted as a facilitator with the express agreement of the parties.

WHEREAS, the Parties have voluntarily agreed to settle the issues related to the revisions Level 3 filed to its South Carolina Tariff No. 4 and there are no other parties of record in the above-captioned proceeding;

WHEREAS, the Office of Regulatory Staff participated in the settlement negotiations and facilitated this Settlement Agreement pursuant S.C. Code Ann. § 58-4-50 (A)(9) (Supp. 2007); and

WHEREAS, following those settlement discussions, the Parties have each determined that their respective interests and ORS has determined that the public interest would be best served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

1. As part of the mediation sessions facilitated by ORS, Level 3 has separately negotiated certain intrastate switched access rates, terms and conditions individually with each of the other parties to this docket.
2. The Parties are authorized to enter into individual contracts pursuant to state law. *See, e.g.*, S.C. Code § 58-9-280(I); S.C. Code § 58-9-285 (Supp. 2007).
3. The ORS has reviewed each of these individual contracts and has discussed the terms and conditions of each individual contract with the parties to that contract and, as a result of those individual discussions, ORS has concluded that each contract is consistent with the public interest.
4. In light of these respective contracts, the Parties and ORS do not object to Level 3's proposed tariff revisions to Tariff No. 4 effective as of the date filed, May 1, 2007, which shall apply to all other carriers unless any such carrier

negotiates its own contract for intrastate switched access rates, terms and conditions with Level 3.

5. The Parties agree to continue to comply with all rules and regulations of the Commission unless and until the Commission has expressly waived such rule or regulation.
6. ORS supports Commission approval of this Settlement Agreement subject to the conditions enumerated herein.
7. ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B) (Supp. 2007). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS submits that the Settlement Agreement serves the "public interest" as defined above.

8. The Parties and ORS agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its approval by the Commission. The Parties and ORS further agree to cooperate in good faith with one another in recommending to

the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties and ORS agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement in its entirety.

9. The Parties and ORS agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other state or federal proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings.
10. This Settlement Agreement shall be interpreted according to South Carolina law.
11. The above terms and conditions fully represent the agreement of the Parties and ORS. Therefore, each Party and ORS acknowledge consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

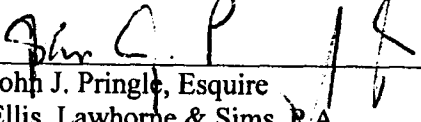
APPENDIX A

South Carolina Telephone Coalition Member Companies

Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company, d/b/a TruVista Communications
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company, d/b/a Comporium Communications
Hargray Telephone Company, Inc.
Home Telephone Company, Inc.
Horry Telephone Cooperative, Inc.
Lancaster Telephone Company, d/b/a Comporium Communications
Lockhart Telephone Company, d/b/a TruVista Communications
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
PBT Telecom
Ridgeway Telephone Company, d/b/a TruVista Communications
Rock Hill Telephone Company, d/b/a Comporium Communications
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

WE AGREE:

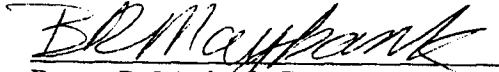
Representing Level 3 Communications LLC



John J. Pringle, Esquire
Ellis, Lawhorne & Sims, R.A.
1501 Main Street, 5th Floor
Post Office Box 2285
Columbia, SC 29202
Phone: (803) 254 -4190
Fax: (803) 779-4749
jpringle@ellislawhorne.com

WE AGREE:

Representing Windstream South Carolina, Inc.

A handwritten signature in black ink, appearing to read "Burnet R. Maybank, III". The signature is written in a cursive, flowing style with a horizontal line underneath it.

Burnet R. Maybank, III, Esquire

Nexsen, Pruet, Adams Kleemeier, LLC

P.O. Drawer 2426

Columbia, South Carolina 29202

Phone: (803)-540-2048

Fax: (803)-253-8277

Email: bmaybank@nexsenpruet.com

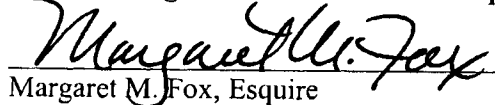
WE AGREE:


Representing Verizon South Inc.

Steve W. Hamm, Esquire
Richardon, Plowden, & Robinson
P.O. Box 7788
Columbia, South Carolina 29202
Phone: (803)771-4400
Fax: (803)799-7555
Email: shamm@rpclaw.com

WE AGREE:

Representing the South Carolina Telephone Coalition

A handwritten signature in black ink, reading "Margaret M. Fox". The signature is written in a cursive style with a horizontal line underneath it.

Margaret M. Fox, Esquire

M. John Bowen, Jr. Esquire

McNair Law Firm, PA

P.O. Box 11390

Columbia, South Carolina 29211

Phone: (803)-799-9800

Fax: (803)-799-9804

Email: pfox@mcnair.net

WE AGREE:

**Representing BellSouth Telecommunications, Inc., d/b/a AT&T South
Carolina, TC Systems, Inc., BellSouth Long Distance, Inc. d/b/a AT&T Long
Distance Service, and AT&T Communications of the Southern States, LLC**



Patrick W. Turner, Esquire

1600 Williams Street

Suite 5200

Columbia, South Carolina 29201


Phone: (803)-401-2900

Fax: (803)-254-1731

Email: pt1285@att.com

WE AGREE:

Representing the South Carolina Office of Regulatory Staff

A handwritten signature in cursive script, reading "Nanette S. Edwards", is written over a horizontal line.

Nanette S. Edwards, Esquire
South Carolina Office of Regulatory Staff
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E-mail: nsedwar@regstaff.sc.gov